

**FILED**

MAY 25 2007

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

Alexis Mager Lakusta,  
*in propria persona*  
1259 El Camino Real #245  
Menlo Park, CA 94025  
(650) 566-9971

E-filing

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

**EC 07 3085**

In re:

Alexis Mager Lakusta,

Debtor, Appellant

v.

Mark H. Evans, et al.,

Appellees

Case No.: No. 02-31521

Chapter 7

Adv. Proc. No. 03-3549 TC  
AML.

**APPLICATION FOR LEAVE TO  
RE-FILE APPEAL FROM ORDER  
DENYING DEBTOR'S MOTION  
FOR ABANDONMENT**

**CW**

Pursuant to Judge Thomas E. Carlson's ORDER DECLARING ALEXIS LAKUSTA A VEXATION LITIGANT AND ENJOINING CERTAIN PROCEEDINGS, appellant hereby files this application for leave to re-file his appeal from Judge Carlson's ORDER DENYING DEBTOR'S MOTION FOR ABANDONMENT entered on May 12, 2006. Also Pursuant to Judge Carlson's "vexatious litigant" order, appellant attaches a copy of that order and a copy of the documents he seeks leave to file.

Appellant has been repeatedly denied his due process rights, and he has been denied his "inalienable rights" to possess and protect his property (Article 1, Section 1, California Constitution). Under California real estate and escrow law, Evans unequivocally did not become the owner of Mr.

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1 Lakusta's Woodside properties. The allegedly valid "Settlement Agreement  
2 and Release" is therefore not legally enforceable because it is not a contract  
3 under California law.

4 This case is centrally about title fraud, escrow fraud, and deed theft. It  
5 is also about settlement fraud. Officers of the court who regularly appear  
6 before this Court have aided and abetted the Evans/LaFountain (Chicago  
7 Title Company) scheme to defraud appellant and his creditors (U.S. criminal  
8 code, Title 18, Part 1, Chapter 9, §157 – "bankruptcy fraud"), and their  
9 misconduct has been kept from the view of the Court through an intentional  
10 violation of the Federal Rules of Civil Procedure and the Local Civil Rules of  
11 this Court – the improper (and ineffective) dismissal of appellant's first  
12 adversary proceeding – and by relentless and continuing violations of the  
13 Federal Rules of Bankruptcy Procedure, including but not necessarily limited  
14 to repeatedly making false representations to this Court as is prohibited by  
15 Rule 9011(b), (1) through (4).

16 Ms. Catherine Robertson in particular refuses to comply with the Local  
17 Civil Rules of this Court or with Federal Bankruptcy Procedure Rule 9011(b).  
18 She displays little regard for the California Rules of Professional Conduct or  
19 the State Bar Act, and Pahl and Gosselin knowingly stands in continuous  
20 breach of its duty of loyalty to its first client, Mr. Lakusta.

21 ....where lawyers appear in an action against a party whom they  
22 represent in another, though unrelated action, they must be  
23 disqualified....The duty of loyalty to the first client prohibited the  
24 firm from representing the second client to any extent in the action.  
25 This duty overrode the second client's right to retain counsel of its  
choice. (Opinion by Rylaarsdam, Acting P.J., with Moore and Fybel,  
JJ., concurring.)  
Cal West Nurseries, Inc., Petitioner, v. Superior Court of Orange  
County, Respondent; A.J. West Ranch. LLC, Real Party in Interest.  
129 Cal.App.4<sup>th</sup> 117029 Cal.Rptr.3d 170 [May 31, 2005]

1 Pahl and Gosselin has demonstrated its full complicity in the Evans/  
2 LaFountain conspiracy to defraud appellant and his legitimate creditors in an  
3 on-going equity theft scam operation. Evans and his successive attorneys,  
4 along with Mr. Boone, have acted both to circumvent and to undermine the  
5 explicit intentions and purposes of the California legislature in enacting the  
6 Home Equity Sales Contract Act (Civil Code §1695 et seq.). Those purposes  
7 and intentions include the preservation and protection of home equities for  
8 the homeowners of this state. Pahl and Gosselin was hired by Mr. Lakusta to  
9 protect his real estate equity. Instead, Pahl and Gosselin has quite literally  
10 stolen the home equity of its first client for the benefit of its new client.

11 Appellant has and will continue to take entirely appropriate and lawful  
12 measures to preserve and protect his and his creditors' rights and property,  
13 and he respectfully requests the cooperation of the Court in upholding and  
14 enforcing the laws of this state and the Federal Rules of Civil and Bankruptcy  
15 Procedure.

16 Dated: May 24, 2007

17 Alexis Mager Lakusta  
18 Alexis Mager Lakusta,  
19 Debtor, Appellant  
20  
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25

September 08, 2006  
 Gloria L. Franklin, Clerk  
 U.S. Bankruptcy Court  
 Northern District of California



Signed and Filed: September 08, 2006

*Thomas E. Carlson*

THOMAS E. CARLSON  
 U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	)	Case No. 02-31521 STC
ALEXIS MAGER LAKUSTA,	)	
	)	
	)	Chapter 7
	)	
Debtor.	)	
	)	
ALEXIS MAGER LAKUSTA,	)	Adv. Proc. No. 03-3549 TC
	)	
Plaintiff,	)	
	)	
vs.	)	
MARK H. EVANS; SHARON LA FOUNTAIN;	)	Date: August 11, 2006
and ALVIN C. SILVERNAGEL,	)	Time: 9:30 a.m.
	)	Ctrm: Hon. Thomas E. Carlson
	)	235 Pine Street
Defendants.	)	San Francisco, CA

ORDER DECLARING ALEXIS LAKUSTA A VEXATIOUS LITIGANT AND  
 ENJOINING CERTAIN FUTURE PROCEEDINGS

The court held a hearing at the above date and time on  
 Defendant Mark Evans' Motion to Declare Alexis Lakusta a Vexatious  
 Litigant. Catherine Scholmann Robertson appeared for Mark Evans.  
 Alexis Lakusta appeared in pro per.

ORDER DECLARING LAKUSTA  
 A VEXATIOUS LITIGANT, ETC.

1       Upon review of the motion, upon due consideration, and for the  
2 reasons stated on the record at the hearing and in the accompanying  
3 memorandum, the court orders as follows.

4       (1) Mr. Lakusta is permanently enjoined from filing: (a) in  
5 any state or federal court; (b) against Mark Evans, Sharon La  
6 Fountain, Alvin D. Silbernagel, Old La Honda Properties, or their  
7 attorneys, affiliates, employees, insurers, agents or any other  
8 person or entity; (c) any claims, defenses, demands, rights, or  
9 causes of actions, whether direct or indirect, absolute or  
10 contingent arising out of or otherwise concerning the "2002  
11 Transactions," the "Settlement Agreement," the "Settlement Order"  
12 or the "Judgment," as those terms are defined in the accompanying  
13 memorandum.

14       (2) Mr. Lakusta may obtain relief from this permanent  
15 injunction by applying for relief to the above-signed. Mr. Lakusta  
16 shall attach to any such request for relief a copy of this order  
17 and a copy of the document(s) Mr. Lakusta seeks leave to file.

18                               **\*\*END OF ORDER\*\***  
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28

Court Service List

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Aron M. Oliner, Esq.  
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1 Market Spear Tower #2000  
San Francisco, CA 94105-1411

1 Alexis Mager Lakusta,  
2 *in propria persona*  
3 1259 El Camino Real #245  
Menlo Park, CA 94025  
(650) 566-9971

4  
5 UNITED STATES BANKRUPTCY COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
7

8 In re:	)	Case No.: No. 02-31521
9 Alexis Mager Lakusta,	)	Chapter 7
10 Debtor, Appellant	)	Adv. Proc. No. 03-3549 TC
11 v.	)	
12 Mark H. Evans, et al.,	)	<b>NOTICE OF APPEAL</b>
13 Appellees	)	

14  
15 Pursuant to the dismissal-without-prejudice order signed by the  
16 Honorable Sandra Brown Armstrong, United States District Judge, on March  
17 27, 2007 (copy attached), Alexis Mager Lakusta hereby re-files his appeal  
18 from the ORDER DENYING DEBTOR'S MOTION FOR ABANDONMENT issued  
19 by United States Bankruptcy Judge Thomas E. Carlson and entered on May  
20 12, 2006. This appeal is made under 28 U.S.C. section 158 (a).

21 A copy of the order being appealed from accompanies this Notice of  
22 Appeal. Also being filed with this Notice of Appeal, pursuant to Federal  
23 Rules of Bankruptcy Procedure, Rule 8001(e), is a separate statement of  
24 election to have this appeal heard by the United States District Court.

25 To avoid duplication of effort and expense, appellant additionally  
requests that the U.S. District Court Clerk assign this case to the Honorable

1 William H. Alsup, to whom appellant's appeal from the status conference  
2 order issued in connection with appellants's MOTION FOR ABANDONMENT  
3 has been assigned.

4 The names of all parties to the order being appealed from, and the  
5 names, addresses, and telephone numbers of their respective attorneys,  
6 where applicable or known, are:

7  
8 Aron M. Oliner  
9 [former counsel to Charles E. Sims, Trustee, deceased]  
10 Duane Morris LLP  
11 1 Market, Spear Tower, 20<sup>th</sup> Fl.  
12 San Francisco, CA 94105-1104  
13 (415) 957-3104

14 Office of the U. S. Trustee  
15 235 Pine Street, Suite 700  
16 San Francisco, CA 94104  
17 (415) 705-3333

18 Mark H. Evans and  
19 Old La Honda Properties, LLC  
20 counsel: Catherine Schlomann Robertson  
21 Pahl and Gosselin  
22 225 West Santa Clara Street, Suite 1500  
23 San Jose, CA 95113-1700  
24 (408) 286-5100

25 Chicago Title Company  
counsel: Kathleen J. Moorhead  
100 N. Wiget Lane, Suite 150  
Walnut Creek, CA 94598  
(925) 930-9550



1 Sharon E. LaFountain  
2 13651 Saratoga-Sunnyvale Road  
3 Saratoga, CA 95070  
4 (408) 867-2000  
5 counsel: unknown

6 David A. Boone, Esq.  
7 counsel: James Robert  
8 Roberts and Elliott LLP  
9 Ten Almaden Blvd.  
10 Suite 500  
11 San Jose, CA 96113  
12 (408) 275-9800

13 David Duperrault and  
14 Silicon Valley Law Group  
15 25 Metro Drive, Suite 600  
16 San Jose, CA 95110  
17 (409) 573-5700  
18 counsel: unknown

19 Wayne A. Silver, Esq.  
20 333 W. El Camino Real  
21 Sunnyvale, CA 94807  
22 (408) 720-7007  
23 counsel: unknown

24 Dated: May 24, 2007 Signed: Alexis Mager Lakusta  
25 Alexis Mager Lakusta,  
*in propria persona*  
1259 El Camino Real #245  
Menlo Park, CA 94025  
(650) 566-9971

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**FILED**

MAR 27 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

IN RE

No. C 06-03431 SBA

ALEXIS MAGER LAKUSTA,

**ORDER**

Debtor.

25

Debtor Alexis Mager Lakusta commenced the instant bankruptcy appeal pro se in this Court on May 26, 2006 by filing a notice of appeal. Federal Rule of Bankruptcy Procedure 8006 requires

[a]ny party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the party's expense. If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost.

FED. R. BANKR. P. 8006. There is no indication that Lakusta has provided the clerk with copies of the items designated on October 11, 2006. See Docket No. 11. Specifically, transcripts of hearings have not been received by this Court.

On November 16, 2006, and January 9, 2007, this Court extended the briefing schedule to allow Lakusta time to file his Opening Brief. On January 31, 2007, Lakusta filed an Opening Brief that this Court finds unintelligible. In a letter to the Court on February 21, 2007, Lakusta stated that "[his] Amended Opening Brief will be provided to the Court and to all those on the service list very shortly."

Over one month has passed and the Court has neither received an Amended Opening Brief nor an Amended Designation of Record that includes copies of the items listed.

**LEGAL STANDARD**

Federal Rule of Bankruptcy Procedure 8006 requires appellants in bankruptcy appeals to meet certain filing deadlines. Additionally, the requirement of perfection of the record in Rule 8006 serves "to provide the reviewing court with an adequate basis for evaluating the appellant's claims" on a bankruptcy appeal. *In re CPDC Inc.*, 221 F.3d 693, 698 (5th Cir. 2000). It also serves "to put the appellee on notice

Entered on Civil Docket **MAR 28 2007**

1 as to which issues it must defend against and whether the appellant's designation of issues will produce  
2 a record adequate for the appellate court." *In re Winders*, 202 B.R. 512, 516 (D. Kan. 1996). "The  
3 burden of creating an adequate record rests with the appellant, who may not urge an issue on appeal if  
4 he has failed to provide the appellate court with the requisite record excerpts." *In re CPDC Inc.*, 221 F.3d  
5 at 698. *See also In re Winslow*, 121 B.R. 598, 599 (D. Colo. 1990) (a court may dismiss an appeal or  
6 affirm the basis of the bankruptcy court's decision when an appellant fails to designate critical parts of  
7 the record).

8 District courts acting in an appellate capacity in relation to bankruptcy court decisions have the  
9 discretion to dismiss a bankruptcy appeal for non-compliance with Rule 8006. *Fitzsimmons v. Nolden*  
10 (*In re Fitzsimmons*), 920 F.2d 1468, 1471 (9th Cir. 1989) (affirming dismissal of appeal for failure to  
11 comply with Bankruptcy Rule 8006 where appellant's conduct was dilatory and egregious). *See also* Fed.  
12 R. Bank. Proc. 8001(a); L.R. 8011-1. Pro se appellants are obligated to comply with the Bankruptcy  
13 Rules in the same way as the other litigants are. *See King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987)  
14 ("Pro se litigants must follow the same rules of procedure that govern other litigants.").

#### 15 ANALYSIS

16 In his Designation of the Record for Matters on Appeal, Lakusta designates numerous motions,  
17 memorandums, transcripts, and judgments. However, Lakusta has not provided the clerk of the Court  
18 with a copy of the documents listed in his designation, nor has he paid the bankruptcy court to make  
19 copies for him, as required by Rule 8006.

20 The Court notes that Lakusta's statement of the issues to be presented on appeal is unintelligible.  
21 Lakusta filed a motion to compel the trustee to abandon claims of the estate against Mark Evans and other  
22 parties. The Bankruptcy Court denied the motion because the claims alleged under the two adversary  
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1 proceedings had already been decided.<sup>1</sup> Under the circumstances presented, the Court has the discretion  
2 to dismiss the appeal. *See Fitzsimmons*, 920 F.2d at 1472-73.

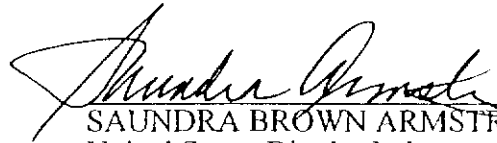
3 CONCLUSION

4 Accordingly,

5 IT IS HEREBY ORDERED that this case is DISMISSED WITHOUT PREJUDICE as to  
6 Lakusta's ability to re-file the appeal when he is prepared to proceed in compliance with the Federal  
7 Rules of Bankruptcy Procedure.

8  
9 IT IS SO ORDERED.

10 Dated: 3-27-067

11   
12 SAUNDRA BROWN ARMSTRONG  
13 United States District Judge  
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23 <sup>1</sup> The Memorandum re Debtor's Motion for Abandonment sheds some light on the issue:

24 The first of the two adversary proceedings identified was dismissed; the second resulted  
25 in a judgment against Lakusta and the estate. Debtor, who had prosecuted the action on  
26 behalf of the estate, filed a motion for relief from judgment that was denied, but did not  
27 appeal either the judgment or the order denying relief from judgment. Debtor now seeks  
28 to file a new suit against Evans and other parties for claims arising out of the same  
transaction as that involved in the action tried to judgment, stating that he "believes there  
may be grounds to set aside the judgment."

Docket No. 4, Ex. 1, at 1-2.

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

IN RE ALEXIS AGER LAKUSTA et al,  
Plaintiff,

Case Number: CV06-03431 SBA

**CERTIFICATE OF SERVICE**

v.

IN RE ALEXIS AGER LAKUSTA et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 27, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Office of the U.S. Trustee / SF  
Office of the U.S. Trustee  
235 Pine Street, Suite 700  
San Francisco, CA 94104

U.S. Bankruptcy Court, No. District of CA (San Francisco)  
Clerk's Office  
235 Pine Street  
P.O. Box 7341  
San Francisco, CA 94120-7341

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14th Fl.

San Jose, CA 95113

Thomas E. Carlson  
USBC-San Francisco  
for the Northern Dist. of CA  
235 Pine St  
P.O. Box 7341  
San Francisco, CA 94104

Dated: March 27, 2007

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk



Signed and Filed: May 11, 2006

A handwritten signature in black ink, appearing to read "T. E. Carlson", is written over a horizontal line.

THOMAS E. CARLSON  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	) Case No. 02-31521 TC
ALEXIS MAGER LAKUSTA,	)
	) Chapter 7
	)
	) Date: May 12, 2006
	) Time: 9:30 a.m.
	) Ctrm: Courtroom 23
	)
Debtor.	)

ORDER DENYING DEBTOR'S MOTION FOR ABANDONMENT

Upon due consideration, and for the reasons stated in the accompanying memorandum, the court hereby issues the following order regarding Debtor's motion to compel abandonment of certain legal claims (the Motion).

(1) The hearing on the Motion, which was scheduled for May 12, 2006 at 9:30 a.m., is hereby vacated.

(2) The Motion is denied.

(3) Pursuant to 11 U.S.C. § 554, none of the legal claims that the estate may have against any party shall be abandoned upon the closing of the case.

(4) The Order Granting Limited Relief From Stay entered by this court on April 18, 2006 is hereby vacated. Any action that

ORDER DENYING DEBTOR'S  
MOTION FOR ABANDONMENT

1 was filed pursuant to that Order (New Action) is therefore subject  
2 to the automatic stay of 11 U.S.C. § 362(a) from this date forward.

3 (5) Because the claims involved in any New Action have not  
4 been abandoned, Trustee remains the real plaintiff in any New  
5 Action. Trustee shall sign and submit for filing in any New Action  
6 a motion or notice of dismissal prepared by one or more of the  
7 defendants to such New Action.

8 \*\*END OF ORDER\*\*  
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ORDER DENYING DEBTOR'S  
MOTION FOR ABANDONMENT



Court Service List

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- 9 David V. Duperrault, Esq.  
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- 14 Catherine Schlomann Robertson, Esq.  
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- 17 Office of the U.S. Trustee  
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- 18
- 19
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**PROOF OF SERVICE BY MAIL**

**Case Name:** In re Alexis Mager Lakusta

**Case Number:** BK Case No. 02-31521

Gary M. Hess declares:

I am over the age of 18 years, not a party to this action, and I am employed at Shmoover Movers in Menlo Park, California.

On May 25, 2007, I placed for collection and mailing, at Menlo Park, California, a copy of the attached:

**NOTICE OF APPEAL**

**STATEMENT OF ELECTION TO HAVE APPEAL  
HEARD BY THE U.S. DISTRICT COURT**

in a sealed envelope, with postage thereon fully prepaid, addressed to:

Aron M. Oliner  
Duane Morris LLP  
1 Market St., Spear Tower, 20<sup>th</sup> Fl.  
San Francisco, CA 94105-1104  
(415) 957-3104  
[former counsel to Charles E. Sims, Trustee, deceased]

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Old La Honda Properties, LLC  
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counsel: Kathleen J. Moorhead  
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David A. Boone, Esq.  
counsel: James Robert  
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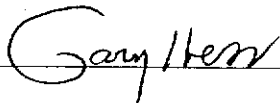
David Duperrault and  
Silicon Valley Law Group  
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San Jose, CA 95110  
(409) 573-5700  
counsel: unknown

Wayne A. Silver, Esq.  
333 W. El Camino Real  
Sunnyvale, CA 94807  
(408) 720-7007  
counsel: unknown

I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

DATED: May 25, 2007

  
\_\_\_\_\_  
Gary M. Hess

Alexis Mager Lakusta,  
*in propria persona*  
1259 El Camino Real #245  
Menlo Park, CA 94025  
(650) 566-9971

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:	) Case No.: No. 02-31521
	) Chapter 7
Alexis Mager Lakusta.	)
Debtor, Appellant	) <b>STATEMENT OF ELECTION</b>
	) <b>TO HAVE APPEAL HEARD BY</b>
	) <b>THE U.S. DISTRICT COURT</b>

Alexis Mager Lakusta, Debtor, hereby elects, under 28 U.S.C. section 158(c)(1), to have his appeal from the ORDER DENYING DEBTOR'S MOTION FOR ABANDONMENT of United States Bankruptcy Judge Thomas E. Carlson, entered on May 12, 2006, to be heard by the United States District Court. This separate statement of election is attached to the Motion of Appeal and a copy of the order being appealed from and is made pursuant to Federal Rules of Bankruptcy Procedure, Rule 8001(e).

Dated: May 24, 2007 Signed: Alexis Mager Lakusta  
Alexis Mager Lakusta,  
*in propria persona*  
1259 El Camino Real #245  
Menlo Park, CA 94025  
(650) 566-9971

**PROOF OF SERVICE BY MAIL**

**Case Name:** In re Alexis Mager Lakusta

**Case Number:** BK Case No. 02-31521

Gary M. Hess declares:

I am over the age of 18 years, not a party to this action, and I am employed at Shmoover Movers in Menlo Park, California.

On May 25, 2007, I placed for collection and mailing, at Menlo Park, California, a copy of the attached:

**NOTICE OF APPEAL**

**STATEMENT OF ELECTION TO HAVE APPEAL  
HEARD BY THE U.S. DISTRICT COURT**

in a sealed envelope, with postage thereon fully prepaid, addressed to:

Aron M. Oliner  
Duane Morris LLP  
1 Market St., Spear Tower, 20<sup>th</sup> Fl.  
San Francisco, CA 94105-1104  
(415) 957-3104  
[former counsel to Charles E. Sims, Trustee, deceased]

Office of the U. S. Trustee  
235 Pine Street, Suite 700  
San Francisco, CA 94104  
(415) 705-3333

Mark H. Evans and  
Old La Honda Properties, LLC  
counsel: Catherine Schlomann Robertson  
Pahl and Gosselin  
225 West Santa Clara Street, Suite 1500  
San Jose, CA 95113-1700  
(408) 286-5100

Chicago Title Company  
counsel: Kathleen J. Moorhead  
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Sharon E. LaFountain  
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(408) 867-2000  
counsel: unknown

David A. Boone, Esq.  
counsel: James Robert  
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David Duperrault and  
Silicon Valley Law Group  
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San Jose, CA 95110  
(409) 573-5700  
counsel: unknown

Wayne A. Silver, Esq.  
333 W. El Camino Real  
Sunnyvale, CA 94807  
(408) 720-7007  
counsel: unknown

I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

DATED: May 25, 2007

  
\_\_\_\_\_  
Gary M. Hess